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PATENT & TRADEMARK OFFICE

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PATENT
Customer No. 22,852
Attorney Docket No. 01975-0032-00000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| In re Application of: | |
| DELEERSNIJDER *et al.* | Group Art Unit: 1647 |
| Application No.: 10/030,549 | Examiner: Gucker, S. |
| Filed: January 11, 2002 | |
| For: HUMAN G-PROTEIN COUPLED RECEPTOR | |

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

## RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated May 15, 2003, Paper No. 12, the Examiner required restriction under 35 U.S.C. § 121 among:

I. Claims 1-9, 11-12, 23 (in part), and 25, drawn to a nucleic acid, vectors, host cells, and a method of making protein, classified in class 536, subclass 23.5.

II. Claims 10, 13-14, and 23 (in part), drawn to a protein or membrane preparation, classified in class 530, subclass 350.

III. Claim 15, drawn to an antibody, classified in class 530, subclass 387.

IV. Claim 16(a), drawn to a method of agonist treatment, classified in class 424+ and 514+.

V. Claims 16(b) and 17(b), drawn to gene therapy, classified in class 514, subclass 44.

VI. Claim 17(a), drawn to a method of antagonist treatment, classified in class 424+ and 514+.

VII. Claim 17(c), drawn to a method of treatment with a solubilized receptor, classified in class 514, subclass 300-350.

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

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VIII. Claim 18, drawn to a diagnostic genetic analysis of polynucleotides and gene expression, classified in class 435, subclass 6+.

IX. Claims 19 and 21, drawn to screening assays, classified in class 435, subclass 7.1 or 7.2+.

X. Claim 20, drawn to an agonist, classified in class 424+ or 514+.

XI. Claim 22, drawn to an antagonist, classified in class 424+ or 514+.

XII. Claim 24, drawn to a nonhuman transgenic animal, classified in class 800, subclass 21.

Applicants provisionally elect to prosecute Group I, claims 1-9, 11-12, 23, and 25, drawn to nucleic acids, vectors, host cells, and methods of making protein, with traverse.

Applicants traverse the Restriction Requirement because several of the groups of claims identified by the Office would not require searches in different classes of prior art. For example, Groups IV, VI, X, and XI all require searches in class 424+ and 514+. It would not be a serious burden on the Office to conduct these searches, which would be the same for all of the claims in those groups. "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits even though it includes claims to independent or distinct inventions." (M.P.E.P. § 803) Applicants submit that the subject matter of the claims in these different groups would encompass the same search, and therefore would not be a serious burden. Therefore, Applicants respectfully request that the restriction requirement be withdrawn and the pending claims in Groups IV, VI, X, and XI be considered together.

Furthermore, as the Office noted, the nucleic acid of Group I can be used to make the protein of Group II, and the protein of Group II can be used to make the

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

antibody of Group III. In fact, the protein of Group II and the antibody of Group III cannot be made by any other process than ones using the nucleic acid of Group I and the protein of Group II, respectively. Therefore, because "[a]llegations of different processes or products need to be documented," M.P.E.P. § 806.05(f), but were not, Applicants respectfully request that the restriction requirement between Groups I, II, and III be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 4, 2003

By: Carol P. Einaudi

Carol P. Einaudi
Reg. No. 32,220
Phone: (202) 408-4000
Fax: (202) 408-4400
E-mail: carol.einaudi@finnegan.com

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com